

Message Text

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FROM USDEL ICAO, LEGAL COMMITTEE

E. O. 11652: N/A

TAGS: EAIR, ICAO

SUBJ: DISCUSSION OF ROME CONVENTION

1. BEGIN SUMMARY. THE LEGAL COMMITTEE TOOK A NUMBER OF SIGNIFICANT DECISIONS WITH RESPECT TO THE FUTURE OF THE ROME CONVENTION ON DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE (ROME, 1952). FINAL DECISION YET TO BE TAKEN, BUT APPEARS THAT THE COUNCIL WILL BE REQUESTED TO CONVENE LEGAL SUBCOMMITTEE EARLY IN 1975 FOR THE PURPOSE OF AMENDING THE ROME CONVENTION AND PREPARING TEXT OF A NEW CONVENTION TO DEAL WITH SONIC BOOM AND NOISE. END SUMMARY.

2. LEGAL COMMITTEE HELD DETAILED DISCUSSION ON ROME CONVENTION ON DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE WHICH RESULTED IN DECISIONS ON PRINCIPLE AND GENERAL GUIDANCE OR NON-GUIDANCE TO A LEGAL SUBCOMMITTEE TO MEET EARLY IN 1975.

3. IT WAS DECIDED THAT QUESTION OF NOISE BE HANDLED IN SEPARATE INSTRUMENT, REQUIRING REVISION OF ROME AS WELL AS THE DRAFTING OF A NEW INSTRUMENT. LIABILITY FOR SONIC BOOM WILL BE INCLUDED IN SAME INSTRUMENT AS NOISE. THESE DECISIONS WERE REACHED AS FOLLOWS: A. ON A VOTE ON PRINCIPLE, DECIDED
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IT WAS NECESSARY AND DESIRABLE TO HAVE INTERNATIONAL RULES

RELATING TO DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE. VOTE: 39 FOR, NONE AGAINST, WITH ONE ABSTENTION (US). B. IT WAS DECIDED BY 21 TO 8 (US) WITH 6 ABSTENTIONS THAT RULES GOVERNING LIABILITY OF THE AIRCRAFT OPERATOR FOR DAMAGE CAUSED BY NOISE SHOULD NOT BE LEFT TO NATIONAL LAWS AND LEGISLATION, AND THAT THIS MATTER SHOULD NOT BE DEALT WITH IN THE ROME CONVENTION. (VOTE: 12 TO 6 WITH 5 ABSTENTIONS (US). C. SIMILARLY, IT WAS DECIDED THAT LIABILITY FOR SONIC BOOM SHOULD NOT BE LEFT TO NATIONAL LAWS AND LEGISLATION AND THAT SONIC BOOM SHOULD NOT BE DEALT WITH IN THE ROME CONVENTION. THE VOTES ON THESE ISSUES WERE, RESPECTIVELY, 24 TO 4 (US) WITH 6 ABSTENTIONS AND 12 (US) TO 9 WITH 10 ABSTENTIONS.

4. MISCELLANEOUS DECISIONS ON PRINCIPLE: A. THE OPERATOR OF THE AIRCRAFT SHOULD BE COMPLETELY EXONERATED FOR DAMAGE CAUSED BY NOISE IF HE COMPLIED WITH THE APPLICABLE REGULATIONS. VOTE: 21 TO 1 (US) WITH 10 ABSTENTIONS. B. THE RULES FOR DAMAGE FROM NOISE SHOULD NOT BE THE SAME AS THOSE APPLIED FOR SONIC BOOM. VOTE 1 TO 17 (US) TO ONE WITH 11 ABSTENTIONS. THE UK HAD PRESSED FOR LIABILITY FOR PHYSICAL DAMAGE ONLY. THE US ARGUED THAT THE COMMITTEE SHOULD NOT DECIDE WHAT TYPE OF DAMAGE SHOULD BE INCLUDED IN AN INSTRUMENT GOVERNING LIABILITY FOR SONIC BOOM AND IT WAS ON THIS LATTER ASSUMPTION THAT THE VOTE WAS TAKEN. IT WAS THUS LEFT TO THE SUBCOMMITTEE TO DECIDE ON THE NATURE AND EXTENT OF THE LIABILITY FOR SONIC BOOM. C. LIMITS OF LIABILITY. IT WAS GENERALLY AGREED THAT THE LIMITS OF THE ROME CONVENTION WERE TOO LOW. IT WAS DECIDED THAT THERE SHOULD BE A LIMIT OF LIABILITY FOR EACH AIRCRAFT AND INCIDENT. VOTE: 24 TO 6 (US) WITH 3 ABSTENTIONS; THERE SHOULD BE A LIMIT IN RESPECT OF LOSS OF LIFE AND PERSONAL INJURY - VOTE: 21 TO 8 (US) WITH 5 ABSTENTIONS. BY VOTES TAKEN IN THE COMMITTEE, IT WAS DECIDED THAT THE LIMITS IN EACH CASE SHOULD BE INCREASED. D. IT WAS DECIDED THAT CHAPTER III OF THE ROME CONVENTION (SECURITY FOR OPERATOR'S LIABILITY) SHOULD NOT BE DELETED BY 20 TO 2 WITH 13 (US) ABSTENTIONS; HOWEVER, IT WAS AGREED WITHOUT VOTE THAT THE SUBCOMMITTEE SHOULD STUDY THE CHAPTER WITH A VIEW TO POSSIBLE SIMPLIFICATION. E. ARTICLE 20 OF THE ROME CONVENTION (RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS) SHOULD BE REVIEWED IN LIGHT OF THE DEVELOPMENT OF INTERNATIONAL LAW AND PRACTICE SINCE 1952. F. NO DECISION WAS TAKEN ON THE QUESTIONS OF SYSTEM OF LIABILITY

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OF DEFENSES WITH RESPECT TO AN INSTRUMENT DEALING WITH NOISE AND SONIC BOOM AND IT WAS UNDERSTOOD THAT ALTERNATIVE TEXTS MIGHT BE PREPARED.

5. THE COMMITTEE DECIDED THAT THE TERMS OF REFERENCE OF THE SUBCOMMITTEE WOULD INCLUDE REVISION OF THE ROME CONVENTION AND THE NEW INSTRUMENT DEALING WITH LIABILITY FOR NOISE AND SONIC BOOM. VOTE: 20 TO ZERO WITH 10 ABSTENTIONS (US). THE COMMITTEE

REJECTED A PROPOSAL THAT, SHOULD A DIPLOMATIC CONFERENCE BE CALLED TO DISCUSS THE REVISIONS OF WARSAW CARGO PROVISIONS, IT SHOULD ALSO EXAMINE THE LIMITS OF LIABILITY OF THE ROME CONVENTION. VOTE: 7 FOR, 18 (US) AGAINST WITH 10 ABSTENTIONS.
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